



ATF-10

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Carlstedt, et al.
Serial No.: 10/038,157
Filed: 01/03/2002
Group Art Unit: 3627
Examiner: Chilcot, Richard E.
Title: METHOD OF SELLING VEHICLES HAVING A
PLURALITY OF SUSPENSION OPTIONS

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant now submits its brief after having filed a Notice of Appeal on October 19, 2004. A check in the amount of \$500.00 is enclosed to pay for the corresponding fee. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Introduction

The §103 rejection that is the subject of this appeal must be reversed because there is no *prima facie* case of obviousness. The reference relied upon by the Examiner, even if modified as suggested by the Examiner, does not contain all the limitations recited in Applicant's claims. Therefore, there is no *prima facie* case of obviousness and the rejection must be reversed.

Real Party in Interest

ArvinMeritor, Inc. is the real party in interest.

Related Appeals and Interferences

There are no related appeals or interferences.

Status of the Claims

Claims 1-17 stand rejected under 35 U.S.C. §103.

Status of Amendments

Applicant submitted an amendment after final that included purely clerical changes to the claims. That amendment was not entered. Entry of that amendment has no effect on the allowability of the claims as the language of the pending claims is entirely allowable.

Summary of Claimed Subject Matter

This invention generally relates to selling vehicles that could be purchased with one of a plurality of suspension options. The claimed system and method include using an adjustable suspension module on a demonstration vehicle and adjusting that module such that it performs as at least one of the available suspension options.

Independent claim 1 recites:

1. A system for selling vehicles having a plurality of available suspension options, comprising:

a communication module that facilitates a vehicle seller obtaining information and providing information;

a data module that is accessible using the communications module, the data module providing information regarding the plurality of suspension options available; and

an adjustable suspension module supported on a demonstration vehicle that is adjustable to perform as the available suspension options such that a customer is permitted to sample the various suspension options using the demonstration vehicle.

This claim reads on the example embodiment shown in Figure 1, for example. That example includes a communications module 32 that facilitates retrieving information from a data module 34, which provides information regarding the plurality of available suspension options.
(Paragraph 13)

An adjustable suspension module 24 in the illustrated example includes a plurality of components 26, 28 that have adjustable responses to road conditions such that the performance of the suspension module 24 simulates a variety of different suspension packages. The illustrated suspension module 24 is supported on a demonstration vehicle 22 such that a customer is permitted to sample the available suspension options using the demonstration vehicle 22.
(Paragraph 11)

Independent 8 claim is a method claim that recites:

8. A method of selling a vehicle that includes one of a plurality of available suspension options using an adjustable suspension module, comprising the steps of:

- (A) informing a customer of the plurality of suspension options;
- (B) adjusting the suspension module to perform as a first one of the plurality of options;
- (C) permitting the customer to sample the first option;
- (D) adjusting the suspension module to perform as at least one other of the plurality of options; and
- (E) permitting the customer to sample the other option.

Independent claim 15 is another method claim that recites:

15. A method of selling at least one type of vehicle that has a plurality of available suspension options, comprising the steps of:

providing a demonstration vehicle that has an adjustable suspension module;

permitting a customer to ride in the demonstration vehicle; and

adjusting the suspension module such that the suspension module performance corresponds to at least one of the plurality of suspension options.

The various dependent claims add various features.

Groups of Rejection to be Reviewed on Appeal

Claims 1-17 were rejected under 35 U.S.C. §103.

Argument

None of the claims can be considered obvious. The Examiner contends that if one were to add a suspension option to the teachings of the *Johnson* reference (U.S. Patent No. 5,493,490), that would render Applicant's claimed invention obvious. One problem with the Examiner's analysis is that even if one were to make such an addition to the *Johnson* reference, the result is not the same as what is claimed.

The *Johnson* reference teaches an arrangement for utilizing a computer-based system to create customized, printed proposals for potential purchasers of a product. The customized proposal of the *Johnson* reference includes pictures, textual descriptions, and pricing information that is selected because it is believed to be of interest to and relevant to a specific customer. (Column 2, lines 7-27)

Nothing in the *Johnson* reference has anything to do with an adjustable suspension module, a demonstration vehicle or permitting a customer to sample various suspension options using a demonstration vehicle. Because each of these is missing from the *Johnson* reference, even if modified as proposed by the Examiner, none of the claims can be considered obvious. Most of the claimed subject matter cannot be found anywhere in the *Johnson* reference, even as modified, and there is no *prima facie* case of obviousness.

CLAIMS 1-3 ARE ALLOWABLE

Claim 1 includes several limitations that cannot found in the proposed modified version of the *Johnson* reference. There is no adjustable suspension module supported on a demonstration vehicle, for example. The Examiner contends that there is a “demonstration module” 60 in the *Johnson* reference but that is an improper interpretation of the reference. The *Johnson* reference includes, “an electronic template for creating a page in a customized proposal...the system may “fill in” the template 60 to customize a proposal for the customer.” That template 60 is a template for providing a written or printed proposal to a customer. There is no adjustable suspension module supported on a demonstration vehicle in the *Johnson* reference. There is nothing that allows a customer to sample any suspension option in the Examiner’s version of the *Johnson* reference.

The rejection of claims 1-3 must be reversed.

CLAIM 4 IS ALLOWABLE

In addition to the reasons why claim 1 is allowable, claim 4 recites that the data module and the communication module are supported on the demonstration vehicle. Even if it were possible to somehow strain the teachings of the *Johnson* reference in a manner to make them consistent with

what is recited in claim 1, there would be no benefit to including a printed proposal making arrangement on a demonstration vehicle. Without any such benefit, there would be no motivation to further modifying the *Johnson* arrangement to be the same as what is claimed in claim 4. There cannot be a *prima facie* case against claim 4.

CLAIMS 5-7 ARE ALLOWABLE

Claim 5 further recites a controller supported on the vehicle that is used to make adjustments to the suspension module. There is no possible benefit to adding such a controller to the *Johnson* arrangement, which is concerned with generating printed or written proposals.

CLAIMS 8-11 ARE ALLOWABLE

Independent claim 8 includes steps (B)-(E), none of which are shown or suggested by the *Johnson* reference even when modified by the Examiner. If even one of these steps were missing, the claim could not be considered obvious. As all four of them are missing, there is no way to sustain the rejection of claim 8.

CLAIM 12 IS ALLOWABLE

Claim 12 adds limitations on the adjustable suspension module and includes setting parameters of the adjustable suspension module so that the active suspension system of the adjustable suspension module performs like one of the available passive suspension system options. These are additional limitations that cannot be found anywhere in the *Johnson* reference, even if modified as proposed by the Examiner.

CLAIMS 13 AND 14 ARE ALLOWABLE

Claims 13 and 14 relate to allowing a customer to sample the performance of the adjustable suspension module to sample the performance of the various suspension options by allowing the customer to ride or drive in a demonstration vehicle that includes the adjustable suspension module. The Examiner's version of the *Johnson* reference does not possibly contemplate such steps. As discussed above, that reference pertains purely to generating customized printed brochures or proposals and has nothing to do with allowing an individual to actually sample component performance using a demonstration vehicle.

CLAIMS 15-17 ARE ALLOWABLE

Claim 15 includes providing a demonstration vehicle, permitting a customer to ride in the demonstration vehicle and adjusting an adjustable suspension module of the demonstration vehicle. None of the steps are disclosed, suggested or even possibly remotely related to the teachings of the *Johnson* reference, even when modified as proposed by the Examiner. Basically, all of claim 15 is absent from the art and there is no *prima facie* case of obviousness against it.

The rejection of claims 15-17 must be reversed.


CONCLUSION

None of the claims can be considered obvious. Even if it were legally permissible to modify the *Johnson* reference as contended by the Examiner, there are many differences between the resulting *Johnson* reference and Applicant's claimed inventions. The rejections must be reversed.

Respectfully submitted

CARLSON, GASKEY & OLDS, P.C.

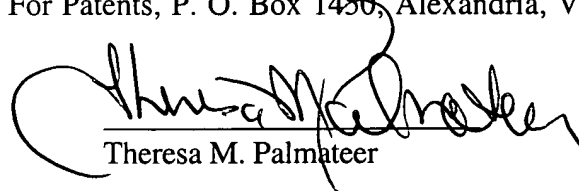
December 20, 2004
Date



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CERTIFICATE OF MAIL

I hereby certify that the enclosed **Appeal Brief and Fees** is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Mail Stop Appeal Brief-Patents, Commissioner For Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on December 20, 2004.



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